

**STATE RECORDS COMMITTEE**

**NOTICE OF PUBLIC MEETING**

**Thursday, November 10, 2016, at 9 a.m. to 4 p.m.**

**Utah State Archives Building  
346 S. Rio Grande St.  
Salt Lake City, UT 84101**

**NOTE: The Chair may recess at 12 noon and reconvene at 12:30 p.m. for lunch when there are two or more hearings scheduled.**

**AGENDA**

**HEARINGS:**

**Roger Bryner vs. Clearfield City:** Mr. Bryner is appealing multiple records access denials ranging from fax logs to emails correspondences from June 2015-present. (Telephonic). Continuance.

**James J. Duran vs. Department of Human Services, Division of Child and Family Services:** Mr. Duran is appealing access denial to an Incident Report and photographs from Millcreek Youth Center. (Telephonic). Continuance.

**Paul Wach vs. Utah Department of Corrections:** Mr. Wach is appealing access denial to his "Cautions" record. (Telephonic).

**Richard Wilson, SIPRUT vs. Utah Tax Commission:** Mr. Wilson is appealing the Department's responsiveness to the GRAMA request for records relating to Intuit/Turbo Tax fraudulent filing. (Telephonic).

**WITHDRAWN/POSTPONED HEARINGS:**

**Lee Davidson, Salt Lake Tribune vs. Utah Transit Authority (UTA):** Mr. Davidson is appealing partial access denial to "current contracts or agreements with Labor Relations Institute (LRI) and/employee Rebecca Marie Smith, including showing amounts to be paid by UTA for their services." Appeal Withdrawn.

**Schatz, Anderson & Associates vs. Washington County Sheriff's Office:** Schatz, Anderson & Associates are appealing access denial to multiple records (disciplinary actions, policies, training certificates). Postponed.

**Advanced Lighting Illuminating Solutions vs. Park City School District:** Mr. Kossin is appealing access denial to the District LED lighting upgrade project proposals, documentation of evaluation, and contract awarded. Appeal withdrawn.

**Jack Brown vs. Washington County Attorney's Office:** Mr. Brown is appealing a fee waiver denial to receive records in paper form versus in CD format. (Telephonic).

## **BUSINESS**

**Approval of October 13, 2016, SRC Minutes, action item**

**Retention Schedules, action item**

**SRC appeals received**

**Cases in District Court**

**Other Business**

**Next meeting scheduled for December 8, 2016, @ 9 a.m. to 4 p.m.**

**ADA:** In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Nova Dubovik at the Utah State Archives and Records Service, 346 S. Rio Grande, Salt Lake City, Utah 84101, or call (801)531-3834, at least three days prior to the meeting.

**Electronic Participation:** One or more members of the State Records Committee may participate electronically or telephonically pursuant to Utah Code 52-4-207(2) and Administrative Rule 35-1-2. Please direct any questions or comments to: State Records Committee, Utah State Archives, 346 S. Rio Grande, Salt Lake City, Utah 84101 (801) 531-3834.

# APPEALS TO THE STATE RECORD COMMITTEE: As of November 2016

Appeals Request No.	Case Title/ Participants	Records Sought	Notes	Status
<b>Withdrawn, Denied, Incomplete, Pending Review</b>				
<b>2016-88</b>	<b>Alex Stuckey, Salt Lake Tribune vs. North Park Police Department (Appealed 7 October)</b>			<b>Hearing Declined</b>
The Petitioner is appealing access denial to police records based on the request did not meet specificity. The chief administrative officer's decision is dated September 2, 2016, the Committee's executive secretary received the notice of appeal on October 7, 2016, untimely by five days. On October 13, 2016, the Committee declined to hear the appeal due to it being untimely filed to the executive secretary. On October 19, 2016, the Petitioner requested a reconsideration. A courtesy response was sent explaining there is no method for reconsideration.				
<b>2016-90</b>	<b>Roger Bryner vs. City of Clinton (Appealed 13 October)</b>			<b>Hearing Declined</b>
The Petitioner is appealing City's decision that the requested contract for all public defenders serving the Clinton Justice court does not exist. The Committee Chair and Ms. Mansell reviewed the appeal and determined: There has not been sufficient evidence provided in the statement of facts, reasons, and legal authority in support of the appeal, that the record was maintained by the governmental entity or that the governmental entity has concealed, or not sufficiently or improperly searched for the record pursuant to Administrative Rule R35-2-2(2).				
<b>2016-91</b>	<b>Roger Bryner vs. City of Syracuse (Appealed 13 October)</b>			<b>Hearing Declined</b>
The Petitioner is appealing City's decision that the requested contract for all public defenders serving the Syracuse Justice court does not exist. The Committee Chair and Ms. Mansell reviewed the appeal and determined: There has not been sufficient evidence provided in the statement of facts, reasons, and legal authority in support of the appeal, that the record was maintained by the governmental entity or that the governmental entity has concealed, or not sufficiently or improperly searched for the record pursuant to Administrative Rule R35-2-2(2).				
<b>2016-93</b>	<b>Mark Kimball vs. Utah Department of Corrections (Appealed 18 October)</b>			<b>Hearing Declined</b>
The Petitioner is appealing access denial to names of employed staff. The notice of appeal is missing initial GRAMA request, governmental entity's, and chief administrative officer's decision. The Committee Chair and Mr. Lambourne reviewed the appeal and determined: There has not been sufficient evidence provided in the statement of facts, reasons, and legal authority in support of the appeal, that the record was maintained by the governmental entity or that the governmental entity has concealed, or not sufficiently or improperly searched for the record pursuant to Administrative Rule R35-2-2(2).				

<b>2016-94</b>	<b>Ozward Balfour vs. Salt Lake County District Attorney's Office (Appealed 19 October)</b>	<b>Telephonic Gunnison</b>	<b>Incomplete</b>
The Petitioner is appealing access denial to multiple records. The County did not respond to his GRAMA request or appeal.			
<b>2016-96</b>	<b>Paul Wach vs. Utah Department of Corrections (Appealed 21 October)</b>		<b>Entered in error</b>
The Petitioner sent material that did not correspond with the initial Appeal Req. 2016-81; however, it was later learned that the additional sent material was evidence for Appeal Req. 2016-81.			
<b>SCHEDULED HEARINGS</b>			
<b>2016-56</b>	<b>James J. Duran vs. Department of Human Services, Division of Child and Family Services (Appealed 13 June)</b>	<b>Telephonic Federal Prison Camp, CO.</b>	<b>Hearing rescheduled November 10, 2016</b>
Mr. Duran is appealing access denial to an Incident Report and photographs from Millcreek Youth Center. Continuance.			
<b>2016-65</b>	<b>Roger Bryner vs. Clearfield City (Appealed 14 July)</b>	<b>Telephonic</b>	<b>Hearing rescheduled November 10, 2016</b>
Mr. Bryner is appealing multiple records access denials ranging from fax logs to emails correspondences from June 2015-present. Continuance.			
<b>2016-74</b>	<b>Advanced Lighting Illuminating Solutions vs. Park City School District (Appealed 10 August)</b>		<b>Appeal withdrawn</b>
Mr. Kossin is appealing access denial to the District LED lighting upgrade project proposals, documentation of evaluation, and contract awarded.			
<b>2016-77</b>	<b>Richard Wilson, SIPRUT vs. Utah Tax Commission (Appealed 30 August)</b>	<b>Telephonic</b>	<b>Hearing rescheduled November 10, 2016</b>
Mr. Wilson is appealing the Department's responsiveness to the GRAMA request for records relating to Intuit/Turbo Tax fraudulent filing.			
<b>2016-75</b>	<b>Jack Brown vs. Washington County Attorney's Office (Appealed 22 August)</b>	<b>Telephonic Draper</b>	<b>Hearing rescheduled November 10, 2016</b>
Mr. Brown is appealing a fee waiver denial to receive records in paper form versus in CD format.			

<b>2016-79</b>	<b>Schatz, Anderson &amp; Associates vs. Washington County Sheriff's Office (Appealed 7 September)</b>		<b>Hearing rescheduled December 8, 2016</b>
Schatz, Anderson & Associates are appealing access denial to multiple records (disciplinary actions, policies, training certificates). The chief administrative officer did not response to the appeal affirming access denial to records.			
<b>2016-81</b>	<b>Paul Wach vs. Utah Department of Corrections (Appealed 13 September)</b>	<b>Telephonic Draper</b>	<b>Hearing scheduled November 10, 2016</b>
Mr. Wach is appealing access denial to his "Cautions" record.			
<b>2016-84</b>	<b>Lee Davidson, Salt Lake Tribune vs. Utah Transit Authority (UTA) (Appealed 29 September)</b>		<b>Appeal withdrawn</b>
Mr. Davidson is appealing partial access denial to "current contracts or agreements with Labor Relations Institute (LRI) and/employee Rebecca Marie Smith, including showing amounts to be paid by UTA for their services."			
<b>2016-86</b>	<b>Nate Carlisle, Salt Lake Tribune vs. Utah County Sheriff's Office (Appealed 5 October)</b>		<b>Hearing rescheduled December 8, 2016</b>
The Petitioner is appealing partial access denial to records pertaining to a Utah County Sheriff's Deputy.			
<b>2016-85</b>	<b>Lori Williams vs. Pleasant Grove City (Appealed 4 October)</b>		<b>Hearing scheduled December 8, 2016</b>
Ms. Williams is appealing access denial to Pleasant Grove Strawberry Days Committee ledgers, financial and accounting records, expenses, sponsorships, donations, contributions, sales and income for 2014-2016.			
<b>2016-89</b>	<b>Eric Peterson vs. Utah Department of Health (Appealed 11 October)</b>		<b>Hearing scheduled December 8, 2016</b>
The Petitioner is appealing access denial to "information on prescription drug overdoses, specifically the "Report on Prescriptions Found With Body" form, excluding the name of the deceased individual."			
<b>2016-95</b>	<b>Richards Jorgensen vs. South Salt Lake City Police Department (Appealed 20 October)</b>		<b>Appeal withdrawn</b>
The Petitioner is appealing the agency's claim of extraordinary circumstances to redact police camera video footage.			
<b>2016-92</b>	<b>Reginald Williams vs. Utah Department of Corrections (Appealed 17 October)</b>	<b>Telephonic Gunnison</b>	<b>Hearing scheduled December 8, 2016</b>
The Petitioner is appealing partial denial of conflict of interest memorandums for government employees staffed at the UDC.			

<b>2016-98</b>	<b>Scott Gollaher vs. Morgan County Attorney's Office (Appealed 28 October)</b>	<b>Telephonic Draper</b>	<b>Hearing scheduled December 8, 2016</b>
The Petitioner is appealing the partial and incomplete response to his GRAMA request.			
<b>2016-99</b>	<b>Michael Christiansen, attorney for estate of Tyler Christianson vs. Roy City Police Department (Appealed 3 November)</b>		<b>Hearing scheduled December 8, 2016</b>
The Petitioner is appealing access denial to "Police reports and accident reports, including audio and video recordings, dash cam video, etc., and witness statements regarding automobile accident that occurred June 30, 2016 near 6000 South 3500 West, Roy, Utah."			
<b>2016-97</b>	<b>David Larsen vs. Heber City Police Department (Appealed 28 October)</b>		<b>Hearing scheduled December 8, 2016</b>
The Petitioner is appealing access denial to an Officer's personnel file containing disciplinary actions.			
<b>Notice of Compliance or Notice of Intent to Appeal</b>			
<b>Decision &amp; Order</b>	<b>Case Title/ Participants</b>	<b>Due</b>	<b>Intent</b>
16-36	Jessica Miller, SL Trib v. Provo and Orem City	October 19	Orem/Provo provided records as ordered.
16-33	Michael Clara vs. UTA	October 19	UTA will Provide records upon payment
16-41	Alex Stuckey, SL Tribune vs. Cedar City Police Dept.	November 23	
16-43	Tracy Taylor vs. Wasatch County School District	November 23	

<b>2016-98</b>	<b>Scott Gollaher vs. Morgan County Attorney's Office (Appealed 28 October)</b>	<b>Telephonic Draper</b>	<b>Hearing scheduled December 8, 2016</b>
The Petitioner is appealing the partial and incomplete response to his GRAMA request.			
<b>2016-99</b>	<b>Michael Christiansen, attorney for estate of Tyler Christianson vs. Roy City Police Department (Appealed 3 November)</b>		<b>Hearing scheduled December 8, 2016</b>
The Petitioner is appealing access denial to "Police reports and accident reports, including audio and video recordings, dash cam video, etc., and witness statements regarding automobile accident that occurred June 30, 2016 near 6000 South 3500 West, Roy, Utah."			
<b>2016-97</b>	<b>David Larsen vs. Heber City Police Department (Appealed 28 October)</b>		<b>Hearing scheduled December 8, 2016</b>
The Petitioner is appealing access denial to an Officer's personnel file containing disciplinary actions.			
<b>Notice of Compliance or Notice of Intent to Appeal</b>			
<b>Decision &amp; Order</b>	<b>Case Title/ Participants</b>	<b>Due</b>	<b>Intent</b>
16-36	Jessica Miller, SL Trib v. Provo and Orem City	October 19	Orem/Provo provided records as ordered.
16-33	Michael Clara vs. UTA	October 19	UTA will Provide records upon payment
16-41	Alex Stuckey, SL Tribune vs. Cedar City Police Dept.	November 23	
16-43	Tracy Taylor vs. Wasatch County School District	November 23	

<b>2016-98</b>	<b>Scott Gollaher vs. Morgan County Attorney's Office (Appealed 28 October)</b>	<b>Telephonic Draper</b>	<b>Hearing scheduled December 8, 2016</b>
The Petitioner is appealing the partial and incomplete response to his GRAMA request.			
<b>2016-99</b>	<b>Michael Christiansen, attorney for estate of Tyler Christianson vs. Roy City Police Department (Appealed 3 November)</b>		<b>Hearing scheduled December 8, 2016</b>
The Petitioner is appealing access denial to "Police reports and accident reports, including audio and video recordings, dash cam video, etc., and witness statements regarding automobile accident that occurred June 30, 2016 near 6000 South 3500 West, Roy, Utah."			
<b>2016-97</b>	<b>David Larsen vs. Heber City Police Department (Appealed 28 October)</b>		<b>Hearing scheduled December 8, 2016</b>
The Petitioner is appealing access denial to an Officer's personnel file containing disciplinary actions.			
<b>Notice of Compliance or Notice of Intent to Appeal</b>			
<b>Decision &amp; Order</b>	<b>Case Title/ Participants</b>	<b>Due</b>	<b>Intent</b>
16-36	Jessica Miller, SL Trib v. Provo and Orem City	October 19	Orem/Provo provided records as ordered.
16-33	Michael Clara vs. UTA	October 19	UTA will Provide records upon payment
16-41	Alex Stuckey, SL Tribune vs. Cedar City Police Dept.	November 23	
16-43	Tracy Taylor vs. Wasatch County School District	November 23	

## **November 2016 State Records Committee Case Updates**

### **District Court Cases**

**Utah Legal Clinic v. Salt Lake City Corp.**, 3<sup>rd</sup> District, Salt Lake County, Judge Gardner, Case No. 160905336, filed August 25, 2016.

**Current Disposition:** Salt Lake City filed a Motion for Summary Judgment on September 16, 2016, and then filed a notice to submit on October 7, 2016. A hearing regarding the motion is scheduled for November 17, 2016.

**Salt Lake Tribune v. Utah State Records Committee**, 3<sup>rd</sup> District, Salt Lake County, Judge Scott, Case No. 160904365, filed July 12, 2016.

**Current Disposition:** BYU has been allowed by the court to intervene in the case, and has joined in the Motion to Dismiss. Hearing on motion to dismiss scheduled for November 21, 2016.

**Bryan Thatcher v. Utah Dept. of Public Safety**, 3<sup>rd</sup> District, Salt Lake County, Judge Kouris, Case No. 160903910, filed June 20, 2016.

**Current Disposition:** Answer filed by Department of Public Safety on July 11, 2016, answer filed for the Committee on July 14, 2016.

**Edgardo Mata v. Utah Dept. of Corrections**, 3<sup>rd</sup> District, Salt Lake County, Judge Gardner, Case No. 160903298, filed May 24, 2016.

**Current Disposition:** Mr. Mata received an extension of time from the court to serve parties with petition for judicial review. Waiver of service signed by Nova Dubovik on behalf of the State Records Committee on November 7, 2016.

**John Rice v. Utah Dept. of Corrections**, 3<sup>rd</sup> District Court, Salt Lake County, Judge James Blanch, Case No. 150909012, filed Dec. 22, 2015.

**Current Disposition:** September 27, 2016 Motion for Summary Judgment filed. Corrections has submitted documents to be reviewed *in camera* by the court.

**Ramon Somoza v. Utah State Records Committee**, 4<sup>th</sup> District, Utah County, Judge McDade, Case No. 150401904, filed Dec. 10, 2015.

**Current Disposition:** Utah County Commission and Utah County Attorney have been dismissed as parties, leaving only the State Records Committee. Mr. Somoza was granted time to amend his complaint and properly serve other parties (Utah County).

**Paul Amann v. Utah Dept. of Human Resources**, 3<sup>rd</sup> District, Salt Lake County, Case No. 150904275, filed June 24, 2015.

**Current Disposition:** Motion to consolidate case with Case No. 150901160 granted on November 1, 2016.

**Swen Heimberg v. Utah Dept. of Public Safety**, 3<sup>rd</sup> District, Salt Lake County, Case No. 150904273, Judge Bates, filed June 24, 2015.

**Current Disposition:** Motions hearing set for December 5, 2016 for case.

**Utah Dept. of Human Resources v. Paul Amann**, 3<sup>rd</sup> District, Salt Lake County, Case No. 150901160, filed February 19, 2015.

**Current Disposition:** Motion for clarification and hearing filed on November 4, 2016.

**William Sherratt v. Utah Dept. of Corrections**, 6<sup>th</sup> District, Sanpete County, Case No. 140600023, filed April 23, 2014.

**Current Disposition:** Corrections filed a second Motion to Quash Service, with Mr. Sheratt's memorandum contra filed on November 9, 2016.

### **Appellate Court Cases**

**Salt Lake City v. Jordan River Restoration Network**, Utah Court of Appeals, Case No. 20160098.

**Current Disposition:** Case currently before the Court of Appeals. A request to file a transcript of the trial has been filed.

### **Bryner Court Cases**

**Roger Bryner v. Utah Attorney General's Office, et. al.**, 3<sup>rd</sup> District, Salt Lake County, Judge Laura Scott, Case No. 160906562, filed October 20, 2016.

**Current Disposition:** Case filed against Utah A.G.'s Office, State of Utah, and Mr. Tonks. GRAMA Request made to A.G.'s Office for e-mail communication between Mr. Tonks and Clearfield City.

**Roger Bryner v. Utah State Records Committee**, 3<sup>rd</sup> District, Salt Lake County, Judge Faust, Case No. 160903793, filed June 15, 2016. Utah Court of Appeals Case No. 20160870-CA.

**Current Disposition:** Committee's Motion to Dismiss granted by Judge Faust on October 21, 2016. Mr. Bryner filed an appeal to the Utah Supreme Court, who assigned it to the Utah Court of Appeals on October 26, 2016. Mr. Bryner filed a Motion for Summary Disposition on October 26, 2016, response to be filed on behalf of the Committee shortly.

**Roger Bryner v. Utah Dept. of Health et. al.**, 3<sup>rd</sup> District, Salt Lake County, Judge Gardner, Case No. 160903244, filed May 23, 2016.

**Current Disposition:** November 4, 2016, Court issued decision allowing Mr. Bryner to consolidate this case with another direct appeal from the Department of Health. Court also denied Motion to Dismiss Ms. Smith-Mansfield and Ms. Cundiff finding that Mr. Bryner stated a "cognizable claim of relief" and that the Committee "is not entitled to relief requested at this stage of the proceeding." An Answer on behalf of Ms. Smith-Mansfield and Ms. Cundiff will be filed and a Motion for Summary Judgment regarding declaratory judgment claims against them.

**Roger Bryner v. City of Clearfield**, 2<sup>nd</sup> District, Davis County, Judge Morris, Case No. 150701062, filed October 20, 2015.

**Current Disposition:** Show Cause hearing scheduled for November 18, 2016 regarding court's motion to find Mr. Bryner a vexatious litigant. Hearing was held on November 4, 2016, where Mr. Bryner requested a continuance to respond to allegations of vexatious litigation. The Order to Show Cause, the court provided a listing of motions filed by Mr. Bryner that the court has found to be